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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 21, 2015
84th Legislature, Number 75
The House convenes at 10 a.m.

Twenty-five bills are on the daily calendar for second-reading consideration today. They are listed on the following page.

The House will consider a Congratulatory and Memorial Calendar.



Alma Allen
Chairman
84(R) - 75

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Thursday, May 21, 2015

84th Legislature, Number 75

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SUBJECT: Repealing production taxes on crude petroleum and sulfur

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 6 ayes — D. Bonnen, Button, Darby, Murphy, Springer, Wray
3 nays — Y. Davis, Martinez Fischer, C. Turner
2 absent — Bohac, Parker

SENATE VOTE: On final passage, March 24 — 25-6 (Ellis, Garcia, Menéndez, Rodríguez, Watson, West)

WITNESSES: For — None
Against — None
On — (*Registered, but did not testify*: Karey Barton, Texas Comptroller of Public Accounts)

BACKGROUND: Natural Resources Code, sec. 81.111 levies a tax on each barrel of crude petroleum produced in the state at the rate of three-sixteenths of one cent.
Tax Code, ch. 203 levies a tax of \$1.03 on each long ton or fraction of a long ton of sulfur produced in the state.

DIGEST: SB 757 would repeal the tax on crude petroleum production and the tax on sulfur production.
The bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

SUPPORTERS SAY: SB 757 actually would increase state revenues by repealing the crude petroleum production tax and the sulfur production tax because these taxes impose a large administrative opportunity cost on the comptroller's resources. Resources currently spent administering and enforcing these fees would generate more revenue if they were redeployed to audit or

enforcement activities for other taxes.

The tax system should strive to make its collections as efficient as possible, and the crude oil and sulfur production taxes impose various costs on consumers and businesses, reducing market efficiency.

Businesses subject to these taxes already pay taxes of some sort, which ensures fairness. Consumers, small businesses, and the state would be better off eliminating these unnecessary taxes, which generate too little revenue to offset the administrative opportunity cost.

**OPPONENTS
SAY:**

SB 757's elimination of taxes on crude petroleum and sulfur would have a direct negative impact on revenue, and the state should not cut revenue when it faces needs in critical areas, such as education and transportation.

This bill would eliminate taxes on the grounds that they do not bring in sufficient revenue to offset the time spent collecting them. However, a tax that is comparatively less cost-effective to collect should not necessarily be eliminated. Businesses should all pay their fair share because they benefit from the same system of legal protections established and enforced by the state government.

NOTES:

The Legislative Budget Board's fiscal note estimates that the taxes eliminated by SB 757 would have a negative net impact of \$10.9 million to general revenue through fiscal 2016-17.

SUBJECT: Provider network requirements for Medicaid managed care organizations

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Raymond, Rose, Keough, Naishtat, Peña, Price, Spitzer

0 nays

2 absent — S. King, Klick

SENATE VOTE: On final passage, April 7 — 31-0

WITNESSES: For — Trey Berndt, AARP; Will Francis, National Association of Social Workers-Texas Chapter; (*Registered, but did not testify*: Mary Nava, Bexar County Medical Society; Carlin Jimenez, Clarity Child Guidance Center; Kathryn Lewis, Disability Rights Texas; Jolene Sanders, Easter Seals Central Texas; Alyse Meyer, LeadingAge Texas; Cate Graziani, Mental Health America of Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Carole Smith, Private Providers Association of Texas; Sandra Frizzell, Providers Alliance for Community Services of Texas; Patty Ducayet, State Long-Term Care Ombudsman Program; Lauren Dimitry, Texans Care for Children; Marina Hench, Texas Association for Home Care and Hospice; Lee Johnson, Texas Council of Community Centers; Scot Kibbe, Texas Health Care Association; Darren Whitehurst, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; David Reynolds, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Ginger Mayeaux, The Arc of Texas)

Against — None

On — (*Registered, but did not testify*: Gary Jessee, Health and Human Services Commission)

BACKGROUND: Most Medicaid services in Texas and all Children's Health Insurance Program services are delivered through contracts with managed care organizations. Under these contracts, the Health and Human Services

Commission (HHSC) pays managed care organizations (MCOs) a monthly amount to coordinate health services for individuals enrolled in their health plans. The health plans contract directly with health care providers to create provider networks that enrollees can use.

Government Code, sec. 533.005(a) sets requirements for a contract between HHSC and an MCO to provide health care services to recipients. One requirement stipulates that before an MCO begins to provide health care services to recipients, the organization must develop and submit to the commission a comprehensive plan that describes how the organization's provider network will provide recipients sufficient access to certain types of care. An MCO also must demonstrate to the commission that the organization's provider network has the capacity to serve the number of recipients expected to enroll in a managed care plan offered by the MCO.

DIGEST:

SB 760 would establish provider access standards for Medicaid managed care providers, set remedies for the failure of a managed care organization (MCO) to meet those standards, and require an MCO to create an expedited credentialing process for certain Medicaid managed care providers. The bill additionally would require an MCO to post its provider directory online and would require the Health and Human Services Commission (HHSC) to monitor an MCO's provider network to ensure compliance with contractual obligations. MCOs also would report to the Legislature and the public on Medicaid managed care recipients' access to providers.

Provider access standards. The bill would require HHSC to establish minimum provider access standards for an MCO's provider network if the MCO contracted with the commission to provide health care services. The bill would require the access standards to ensure that an MCO provided recipients sufficient access to:

- preventive care;
- primary care;
- specialty care;
- after-hours urgent care;

- chronic care;
- long-term services and supports;
- nursing services;
- therapy services, including services provided in a clinical setting or in a home or community-based setting; and
- any other services identified by HHSC.

The provider access standards, if feasible, would distinguish between access to providers in urban and rural settings and would consider the number and geographic distribution of Medicaid-enrolled providers in a particular service delivery area.

Remedies for failure to comply with provider access standards. If an MCO contracting with HHSC failed to comply with one or more provider access standards established under the bill and HHSC determined that the MCO had not made substantial efforts to mitigate or remedy the noncompliance, HHSC would suspend default enrollment for an MCO in a given service delivery area for at least one quarter of the year if the MCO was noncompliant in the service delivery area for two consecutive quarters. HHSC also could:

- choose not to retain or renew HHSC's contract with the MCO; or
- require the MCO to pay liquidated damages in amounts that were reasonably related to the noncompliance for each failure to comply with the provider access standards.

Expedited credentialing. The bill would require an MCO that contracted with HHSC to establish and implement an expedited credentialing process to allow providers to apply for eligibility to provide services to MCO plan recipients on a provisional basis. HHSC would identify which types of providers would have an expedited credentialing process.

To qualify for expedited credentialing and reimbursement under Medicaid, a provider would have to:

- be a member of an established health care provider group that had a current contract with an MCO;

- be a Medicaid-enrolled provider;
- agree to comply with the terms of the MCO's contract; and
- submit all documentation and other information required by the MCO as necessary to allow the MCO to begin the credentialing process to include the provider in the MCO's network.

Once a provider had submitted the information required by the MCO as part of the expedited credentialing process, the MCO would treat the provider, for Medicaid reimbursement purposes only, as if the provider were in the organization's provider network when the provider delivered services to recipients of an MCO plan. If the MCO determined, after the provider completed the credentialing process, that the provider did not meet the MCO's credentialing requirements, the MCO could recover from the provider the difference between payments for in-network benefits and out-of-network benefits.

If the provider applied to be part of an MCO's network and did not meet the MCO's credentialing requirements and made fraudulent claims in its application, the MCO could recover from the provider the entire amount of any payment made to the provider.

Provider network directories. HHSC would ensure that an MCO that contracted with HHSC posted the MCO's provider network directory on the MCO's website as well as a direct telephone number and e-mail address through which a managed care plan recipient or the recipient's health care provider could receive assistance with identifying in-network health care providers, scheduling appointments with a provider, or accessing available in-network services. The MCO would be required to send a paper version of the provider network directory only to a recipient who requested to receive the directory in paper form, except for STAR Kids or STAR+PLUS Medicaid managed care recipients, who would automatically receive a paper version of the directory unless they opted out.

The bill would require the MCO to update the online provider network directory at least monthly.

Monitoring. HHSC would establish and implement a process for directly

monitoring an MCO's provider network and providers in the network. The process would be used to ensure compliance with contractual obligations related to:

- the number of providers accepting new patients under the Medicaid managed care program; and
- the length of time a recipient would be required to wait between scheduling an appointment with a provider and receiving treatment from the provider.

As part of the process, HHSC could use reasonable methods to ensure compliance with contractual obligations, including telephone calls made at random times without notice to assess the availability of providers and services to new and existing recipients. The process could be implemented directly by HHSC or through a contractor.

Report to Legislature. Each biennium, HHSC would submit a report to the Legislature and the public that would contain information and statistics about MCO recipients' access to providers in the MCOs' provider networks and MCOs' compliance with contractual obligations related to provider access standards specified in the bill. The report also would contain:

- information on provider-to-recipient ratios in an MCOs' provider network;
- benchmark ratios to indicate whether there were deficiencies in an MCO's network; and
- a description and analysis of the results from HHSC's process for monitoring MCOs.

HHSC would submit the first report to the Legislature by December 1, 2016.

Contract. A contract for health care services between an MCO and HHSC would have to contain a requirement for the MCO to develop and submit to HHSC a comprehensive plan that described how the MCO's provider network would comply with the provider access standards

established in the bill and that, as a condition of contract retention and renewal, the MCO would:

- continue to comply with the provider access standards; and
- make substantial efforts, as determined by HHSC, to mitigate or remedy any noncompliance with those provider access standards.

An MCO would be contractually required to regularly submit data to HHSC and make data available to the public regarding access to primary care, specialty care, long-term services and supports, nursing services, and therapy services on:

- the average length of time between the date a provider requested prior authorization for care or a service and the date the MCO approved or denied the request; and
- the date the organization approved a request for prior authorization for the care or service and the date the care or service was initiated.

The contract also would contain a requirement for an MCO to make initial and subsequent primary care provider assignments and changes.

A contract between HHSC and an MCO that was entered into or renewed on or after September 1, 2015, would require the MCO to comply with the provisions of the bill.

HHSC would seek to amend contracts with MCOs that were entered into before September 1, 2015, to require that those MCOs comply with the provisions in the bill. To the extent that a conflict existed between the bill's provisions and a provision of a contract with an MCO that HHSC entered into before September 1, 2015, the contract provision would prevail.

Waivers. If, before implementing any provision of the bill, a state agency determined that a waiver or authorization from a federal agency was necessary to implement that provision, the agency would be required to request the waiver or authorization and could delay implementation until it received it.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

SB 760 would provide the Health and Human Services Commission (HHSC) with the tools necessary to monitor Medicaid MCO's provider networks and ensure that MCOs were delivering an appropriate level of care. The state spends billions of dollars on contracts with Medicaid MCOs, which provide health care to the majority of Medicaid enrollees in Texas. The bill would help ensure that the MCOs receiving this money were providing access to care through adequate provider networks.

Medicaid patients and health care providers seeking to refer Medicaid patients to specialists have found that some MCOs have very few providers in their networks, even in large cities that should have enough providers. By requiring all MCOs to meet provider network adequacy standards determined by HHSC, the bill would increase consistency in provider networks between plans and would reduce the wait times for Medicaid appointments. Ensuring that MCOs had adequate provider networks also would reduce the cost to the state of Medicaid patients using more expensive urgent care and emergency care because they could not find a primary care provider that accepted their plan.

The bill also would increase transparency and accountability regarding access to physicians by requiring Medicaid MCOs that contract with HHSC to post their provider directories online and to update the directories monthly. Posting the directory online would reduce the time needed for patients and providers to ensure that a provider listed in an MCO's directory was in-network and would reduce the occurrence of patients traveling to an appointment to find that the provider was not part of the MCO's network.

Additionally, the bill would increase the number of providers in an MCO's network by creating an expedited credentialing process for certain types of providers as determined by HHSC. This credentialing process would be limited to providers who were enrolled in Medicaid and were

part of an established health care provider group that had a current contract with a managed care organization. The bill also would improve oversight and accountability for MCOs by creating remedies for an MCO's failure to comply with provider access standards set by HHSC.

The Senate-engrossed version of the bill addressed stakeholders' concerns with previous versions.

OPPONENTS
SAY:

No apparent opposition.

SUBJECT: Allowing all counties to offer certain services related to driver's licenses

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 8 ayes — Phillips, Nevárez, Burns, Dale, Metcalf, Moody, M. White,
Wray

0 nays

1 absent — Johnson

SENATE VOTE: On final passage, April 28 — 30-1 (Uresti)

WITNESSES: For — None

Against — None

On — Ron Coleman, Texas Department of Public Safety

BACKGROUND: SB 1729 by Nichols, enacted by the 83rd Legislature in 2013, authorized the Department of Public Safety (DPS) to establish a pilot program for the provision of renewal and duplicate driver's licenses, election identification certificates, and personal identification services in certain counties.

Under the pilot program, as provided by Transportation Code, sec. 521.008, DPS may enter into an agreement with a commissioners court to allow county employees to offer at a county office driver's license and personal identification services and to collect associated fees. County employees may provide services that include taking photos, administering vision tests, and updating driver's licenses or identification documents. DPS may enter into agreements only with counties that meet certain criteria specified in current law.

DIGEST: SB 1756 would expand the Department of Public Safety (DPS) program that authorizes the department to enter into agreements with counties to allow county employees to provide certain renewal and duplicate driver's license and other identification certificate services. The bill would remove

the program's designation as a "pilot" program.

DPS could establish a program to provide renewal and duplicate driver's license, election identification certificate, and personal identification certificate services in any county that entered into an agreement with the department to offer these services.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

SB 1756 would expand a Department of Public Safety (DPS) pilot program that successfully increased efficiency and expedited the delivery of services within local DPS offices by allowing counties to provide certain services for driver's licenses and other identification renewal and duplication. Texas' population has grown significantly in recent years, increasing the demand on DPS driver's license offices for license renewal and duplication. Moreover, some rural counties do not have a DPS office or an office located nearby. This bill would expand the program to allow all counties to participate.

This bill is permissive and would not require DPS or a county commissioners court to enter into any agreement to provide these services. Counties that entered into an agreement would cover the cost of a facility, while DPS would provide only training and necessary equipment, which would minimize costs for the department. The fiscal note estimates the cost of participation for every county in Texas. The ability for DPS to offer services to counties is limited by its budget, and DPS would not enter into an agreement without sufficient funds.

**OPPONENTS
SAY:**

By allowing the implementation of this program across the state, SB 1756 could be expensive for DPS. According to the fiscal note, the program could cost up to \$5.3 million in fiscal 2016 and about \$2.3 million in each following year.

NOTES:

According to the Legislative Budget Board's fiscal note, the cost of this program would depend on the number of counties that entered into an agreement with DPS. The LBB estimated that if every county participated,

the program would cost \$5.3 million in fiscal 2016 and about \$2.3 million in each following year.

SUBJECT: Re-establishing the Texas Department of Motor Vehicles fund

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Pickett, Martinez, Burkett, Y. Davis, Fletcher, Harless, Israel, Minjarez, Murr, Paddie, Phillips, Simmons

0 nays

1 absent — McClendon

SENATE VOTE: On final passage, April 20 — 30-0

WITNESSES: *(On House companion bill, HB 4115)*
For — *(Registered, but did not testify:* Vic Suhm, Tarrant Regional Transportation Coalition; Donald Lee, Texas Conference of Urban Counties; Vincent May)

Against — None

On — Jeremiah Kuntz, Texas Department of Motor Vehicles; *(Registered, but did not testify:* Whitney Brewster and Linda Flores, Texas Department of Motor Vehicles; James Bass, Texas Department of Transportation)

BACKGROUND: HB 2202 by Pickett, enacted by the 83rd Legislature, established the Texas Department of Motor Vehicles (TxDMV) fund as a special fund in the treasury outside the general revenue fund and State Highway Fund.

Under Transportation Code, ch. 1001, subch. E established by HB 2202, the fund may be used only to support TxDMV's operations and duties and to pay the accounting costs and related liabilities for the fund. The fund consists of money statutorily dedicated to TxDMV, money appropriated to TxDMV by the Legislature, and certain other funds. In addition, under Sec. 502.356, HB 2202 authorized the department to collect a fee of up to \$1 per registration to be deposited in the fund to help pay for the automation of certain TxDMV registration and titling services.

HB 6 by Otto, also enacted by the 83rd Legislature, consolidated general

revenue dedicated funds into general revenue, including the TxDMV fund. As a result, TxDMV currently is funded through general revenue, rather than the TxDMV fund as specified by HB 2202.

DIGEST: CSSB 1512 would re-create the Texas Department of Motor Vehicles fund as a special fund in the state treasury outside the general revenue fund to support the operations and duties of Texas Department of Motor Vehicles. The fund would be supported under the terms established by HB 2202 by Pickett, enacted by the 83rd Legislature, and all revenue dedicated for deposit to the credit of the Texas Department of Motor Vehicles fund by that bill would be rededicated for that purpose by CSSB 1512.

On September 1, 2016, the comptroller would be required to transfer \$23 million from the general revenue fund to the Texas Department of Motor Vehicles fund.

The bill would take effect September 1, 2016.

SUPPORTERS SAY: CSSB 1512 would establish a source of funding for the Texas Department of Motor Vehicles (TxDMV) separate from the State Highway Fund and general revenue by re-creating the TxDMV fund. This would improve transparency in funding state agencies by ensuring that statutorily dedicated fees were used for their intended purposes.

The bill is a revenue-neutral measure that would ensure TxDMV had dedicated funding to support its operations, including its program to operate and adopt industry-standard technology for vehicle registrations using the \$1 automation fee authorized under Transportation Code, sec. 502.356. In total, according to the Legislative Budget Board's fiscal note, the fund would receive about \$126.8 million from general revenue in fiscal 2017, in addition to the \$23 million required by the bill, for a total of \$149.8 million to support TxDMV functions.

OPPONENTS SAY: No apparent opposition.

NOTES: CSSB 1512 differs from the Senate-engrossed version in the revenue it

would initially transfer to the Texas Department of Motor Vehicles fund. SB 1512 as engrossed would direct the comptroller to transfer an amount equal to the total amount of automation fees collected by TxDMV between November 1, 2009, and August 31, 2013, from the State Highway Fund, which according to the Legislative Budget Board (LBB) totals \$84.4 million. CSSB 1512 instead would direct the comptroller to transfer \$23 million from general revenue to the Texas Department of Motor Vehicles fund.

According to the LBB's fiscal note, CSSB 1512 would have a negative impact of \$149.8 million on general revenue during fiscal 2016-17, with a corresponding gain to the re-created Texas Department of Motor Vehicles fund during the same period.

The House companion bill, HB 4115 by Pickett, was reported favorably out of the House Transportation Committee on May 7 and sent to the Calendars Committee on May 8.

The House on April 28 passed HB 6 by Otto, which contains provisions similar to CSSB 1512. HB 6 would re-create the Texas Department of Motor Vehicles fund and exempt it from funds consolidation, but it would not transfer money to the fund. HB 6 has been referred to the Senate Finance Committee.

SUBJECT: Making certain property tax appraisal photographs confidential

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 6 ayes — D. Bonnen, Button, Martinez Fischer, Murphy, Springer, Wray
0 nays
5 absent — Y. Davis, Bohac, Darby, Parker, C. Turner

SENATE VOTE: On final passage, March 30 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Brent South, Texas Association of Appraisal Districts; Bill Hammond, Texas Association of Business; Steven Garza, Texas Association of Realtors; Marya Crigler, Travis Central Appraisal District)

Against — None

DIGEST: SB 46 would exempt certain photographs taken for tax appraisal purposes from public information requests. If a photograph was taken by the chief appraiser of an appraisal district for property tax appraisal purposes and the photograph showed the interior of an improvement to property, it would be confidential and excepted from accessible public information.

The bill would require a governmental body to disclose a photograph if the person requesting the disclosure had an ownership interest in the improvement to property shown in the photograph on the date the photograph was taken. A public information officer could require the person requesting the disclosure to provide additional information to prove the requestor was eligible to receive the photograph.

A photograph noted above could be used as evidence in a protest under Tax Code, ch. 41, or an appeal of an appraisal review board's determination under ch. 42. The photograph would have to be relevant to the contested matter. A photograph used as evidence in these cases would remain confidential and could not be disclosed or used for any other

purpose.

The bill would take effect September 1, 2015.

**SUPPORTERS
SAY:**

SB 46 would clarify an ambiguity in current law. Appraisers are not required to obtain consent from a business owner before photographing the owner's property, and photographs can contain business trade secrets, personal information, and violate a property owner's expectation of privacy. Under current law, it is unclear whether these photographs are subject to public information requests. The bill would protect a property owner's privacy while allowing the information contained in the photographs to be used for relevant purposes.

The bill would not impair a taxpayer's ability to hold appraisers accountable because there is little information contained in a photograph related to a property's value. Specifically for commercial properties, the appraisal commonly is determined by the amount of income produced, not by photographs taken of the property. Photographs are more relevant for residential properties, where the owner's right to privacy is paramount. The balance should weigh heavily in favor of the homeowner's privacy against the need for transparency and this bill would strike the appropriate balance.

**OPPONENTS
SAY:**

SB 46 could limit the ability of taxpayers to hold appraisers accountable for conducting property appraisals uniformly and consistently. While it is necessary to balance the competing interests of a property owner's right to privacy and the need for governmental transparency, the bill could go too far in favor of the property owner. Taxpayers have the right to ensure their property is being evaluated the same as other property.

SUBJECT: Requiring showing of merit before allowing discovery of net worth

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Smithee, Clardy, Laubenberg, Schofield, Sheets
4 nays — Farrar, Hernandez, Raymond, S. Thompson

SENATE VOTE: On final passage, April 28 — 20–11 (Ellis, Garcia, Hinojosa, Lucio, Menéndez, Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: *(On House companion bill, HB 969)*
For — Mike Hull, Texans for Lawsuit Reform; Kathleen Hunker, Texas Public Policy Foundation; *(Registered, but did not testify:* Jay Thompson, AFACT; Jon Fisher, Associated Builders and Contractors of Texas; Michael Peterson, AT&T Texas; Nelson Salinas, Texas Association of Business; Scott Norman, Texas Association of Builders; Carol Sims, Texas Civil Justice League; Daniel Womack, the Dow Chemical Company; Stephanie Simpson, Texas Association of Manufacturers)

Against — Bryan Blevins, Texas Trial Lawyers Association: (Registered, but did not testify: Kristen Hawkins)

On — George Christian, Texas Association of Defense Counsel

BACKGROUND: Civil Practice and Remedies Code, sec. 41.001 defines exemplary damages as any damages awarded as a penalty or punishment but not for compensatory purposes, including punitive damages. Exemplary damages are neither economic nor noneconomic damages.

Under sec. 41.003, exemplary damages may be awarded only if claimants prove by clear and convincing evidence that their harm resulted from fraud, malice, or gross negligence, unless exemplary damages are established by statute. If the exemplary damages are established in statute, claimants must prove by clear and convincing evidence that their harm resulted from the specified circumstances or culpable mental state. A jury would have to unanimously find that liability existed and that exemplary

damages were warranted for these damages to be awarded.

Under sec. 41.011, a trier of fact, when determining exemplary damages, may consider, among other things, the net worth of the defendant.

In *Lunsford v. Morris*, the Supreme Court of Texas ruled in 1988 that a defendant's net worth is relevant to the issue of exemplary damages and is therefore discoverable under Tex. R. Civ. P. 166b(2), which states that a party may obtain discovery regarding any matter relevant to the subject matter.

DIGEST:

SB 735 would require a motion of a party, proper notice, and a hearing where a claimant would have to show a substantial likelihood of success on the merits of a claim for exemplary damages before a court authorized discovery of evidence of a defendant's net worth. Evidence for or against these motions could be in the form of an affidavit or a response to discovery.

If the court authorized discovery, it could authorize only the least burdensome method available to obtain the evidence.

Courts reviewing orders authorizing or denying discovery of net worth evidence could consider only evidence submitted by the parties to the trial court in support of or opposition to the motion.

This bill would take effect September 1, 2015, and would apply only to actions filed on or after that date.

**SUPPORTERS
SAY:**

SB 735 would help prevent claimants from using frivolous claims of exemplary damages and requests to discover a defendant's net worth to harass the defendant. The bill would accomplish this by requiring claimants to make a showing of the merits of their exemplary damages claim before discovering information related to a defendant's net worth. This bill would prevent claims of exemplary damages that were simply aimed to force defendants to settle to keep their net worth information private, to expend resources compiling net worth information, or to bear the costs of fighting motions to compel discovery.

The reasons for allowing discovery of this information given in *Lunsford v. Morris* have been largely nullified by caps to punitive damages. Because these caps are relatively low, it is unlikely that a defendant's net worth would have a significant impact on an exemplary damages determination.

The bill would not place an overly restrictive burden on discovery of a defendant's net worth. The standard of "substantial likelihood" is a relatively low legal standard compared to the "clear and convincing evidence" or even "preponderance of the evidence" standards.

OPPONENTS
SAY:

SB 735 would place a burden on claimants in cases where a defendant's net worth could be critical to determining exemplary damages. It also is unnecessary because claimants already must meet a high bar in pleading exemplary damages. They are required to plead with specificity facts that, if true, would give rise to an award of exemplary damages. This requirement is sufficient to eliminate the most frivolous exemplary damages claims.

The burden placed on claimants seeking to discover information related to a defendant's net worth would be significant. They would have to prove with substantial certainty that a jury would unanimously find, by clear and convincing evidence, that exemplary damages were warranted. That would be a high obstacle to overcome, and it is unlikely that any judge would find that a claimant had met that standard.

NOTES:

The House companion bill, HB 969 by K. King, was placed on the May 8 General State Calendar, laid out on May 11 as postponed business, and returned to the Calendars Committee following a point of order. The bill later was placed on the May 14 General State Calendar but was not considered.

SUBJECT: Student loan repayment for certain mental health professionals

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — Crownover, Naishtat, Blanco, R. Miller, Sheffield, Zedler, Zerwas
0 nays
4 absent — Coleman, Collier, S. Davis, Guerra

SENATE VOTE: On final passage, April 27 — 23-7 (Birdwell, Burton, Fraser, Hall, Hancock, Huffines, V. Taylor)

WITNESSES: For — Phyllis Peterson, Texas Academy of Physician Assistants; *(Registered, but did not testify:* Anne Dunkelberg, Center for Public Policy Priorities; Vicki Perkins, CHRISTUS Health; Tanya Lavelle, Easter Seals Central Texas; Eric Woomer, Federation of Texas Psychiatry; Coby Chase, Meadows Mental Health Policy Institute; Bill Kelly, Mental Health America of Greater Houston; Greg Hansch, National Alliance of Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Eric Wright, Signature Healthcare; Eileen Garcia, Texans Care for Children; Olga Rodriguez, Texas Association of Community Health Centers; Sarah Crockett, Texas CASA; Lee Johnson, Texas Council of Community Centers; Jan Friese, Texas Counseling Association; Douglas Smith, Texas Criminal Justice Coalition; Charles Bailey, Texas Hospital Association; Dan Finch, Texas Medical Association; Kathy Hutto, Texas Occupational Therapy Association, Coalition for Nurses in Advanced Practice; David Reynolds, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; Max Jones, The Greater Houston Partnership; Casey Smith, United Ways of Texas; Knox Kimberly, Upbring: The New Lutheran Social Services of the South; and 15 individuals)

Against — None

On — *(Registered, but did not testify:* Lesa Moller, Texas Higher

Education Coordinating Board; Royce Myers, Texas Juvenile Justice Department)

BACKGROUND: The 83rd Legislature in 2013 passed HB 1023 by Burkett, which charged the Health and Human Services Commission with making recommendations regarding the state's mental health workforce shortage. The September 2014 report included increasing the size and improving the distribution of the mental health workforce among its key policy themes.

DIGEST: CSSB 239 would establish a program, subject to legislative funding, to provide student loan repayment assistance for certain mental health professionals who agreed to practice in underserved areas.

Eligibility. The program would be administered by the Texas Higher Education Coordinating Board (THECB) and would be available to the following mental health professionals:

- a licensed physician who was a graduate of an accredited psychiatric residency training program or was board certified in psychiatry;
- a psychologist;
- a licensed professional counselor;
- an advanced practice registered nurse who held a nationally recognized board certification in psychiatric or mental health nursing; and
- a licensed clinical social worker.

To be eligible, a mental health professional would have to apply to THECB; have completed one to five consecutive years of practice in a mental health professional shortage area designated by the Department of State Health Services; and provide services to Medicaid recipients, enrollees in the Children's Health Insurance Program, or individuals in state juvenile or adult correctional facilities.

A mental health professional could receive repayment assistance for no more than five years.

No more than 10 percent of the number of repayment grants could be awarded each year to mental health professionals working in state correctional facilities. No more than 30 percent of the number of repayment grants could be awarded each year to any one of the eligible professions.

For a licensed physician to remain eligible for repayment assistance after the physician's third consecutive year of practice in an underserved area, the physician would have to be certified in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry.

Repayments. Repayment assistance could be provided for student loans received for education at a Texas public or private institution of higher education as well as an accredited public or private out-of-state institution. Assistance would not be available for a loan that was in default at the time of application.

The bill would establish the following schedule for repayment assistance:

- for the first year, 10 percent;
- for the second year, 15 percent;
- for the third year, 20 percent;
- for the fourth year, 25 percent; and
- for the fifth year, 30 percent.

The total amount of assistance could not exceed:

- \$160,000 for a licensed physician;
- \$80,000 for a psychologist, licensed clinical social worker with a doctoral degree related to social work, or a licensed professional counselor with a doctoral degree related to counseling;
- \$60,000 for an advanced practice registered nurse; and
- \$40,000 for a licensed clinical social worker or licensed professional counselor.

The total amount of repayment assistance would not exceed the sum of

legislative appropriations, gifts and grants, and other available funds. THECB could adjust in an equitable manner the distribution amounts for a year as necessary to meet available funding.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSSB 239 could help alleviate the state's serious shortage of mental health professionals by establishing a program to offer student loan repayments for professionals who agreed to practice in underserved areas and serve Texans enrolled in Medicaid or the Children's Health Insurance Program (CHIP) or who are incarcerated.

As of January, 199 of the state's 254 counties were designated as mental health professional shortage areas, defined as an area with as few as one psychiatrist for 30,000 people. An additional 12 counties were designated as partial shortage areas. Five populous counties with 43 percent of the state's total population had 63 percent of the state's psychiatrists.

Individuals with untreated mental illness often end up being treated in hospital emergency rooms or being incarcerated. The bill would save tax dollars in the long run by ensuring those with mental illness received appropriate treatment.

Many of the mental health professionals eligible for student loan repayments would have obtained undergraduate and advanced degrees. Some of these professionals are not highly paid, leaving them struggling to make ends meet and pay off their loans. The bill could help them financially while also providing increased services for rural areas and the border.

The reimbursement rates for mental health professionals who serve Medicaid and CHIP populations often are below what professionals could earn serving other populations. Keeping experienced mental health professionals as providers for Medicaid and CHIP patients would help preserve the continuum of care for some of the state's most vulnerable residents.

The program is contingent on legislative funding. It is an appropriate role for government to help those suffering from severe mental illness to access care. The Legislature has recognized that responsibility by increasing mental health funding in recent sessions. Student loan repayment programs are not a new concept, and the state has used such programs for many years to help address physician shortages in the state.

**OPPONENTS
SAY:**

CSSB 239 would increase spending and expand government intervention in education by offering financial incentives for mental health professionals to practice in certain areas designated by the federal government as underserved. Student debt is a serious problem but the solution should not be to create additional loan repayment programs with taxpayer money. The bill could circumvent market forces that determine where mental health professionals choose to practice their professions.

NOTES:

The Legislative Budget Board estimates that CSSB 239 would have a negative impact of \$3 million to general revenue through fiscal 2016-17. The Senate-passed budget includes \$5 million in general revenue and general revenue dedicated funds in Art. 11 as a contingency for the loan repayment program.

CSSB 239 differs from the Senate engrossed version in that in the House substitute, a mental health professional would include a licensed physician who was certified in psychiatry by the American Osteopathic Board of Neurology and Psychiatry.

SUBJECT: Allowing firing for falsifying military records to get employment benefits

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 7 ayes — S. King, Frank, Aycock, Blanco, Farias, Schaefer, Shaheen
0 nays

SENATE VOTE: On final passage, March 24 — 31-0

WITNESSES: For — (*Registered, but did not testify*: John McKinny, American Legion Department of Texas; Annie Spilman, National Federation of Independent Business-Texas; Jason Vaughn)

Against — None

BACKGROUND: Under Penal Code, sec. 32.54, it is a crime for a person to use or claim to hold a military record that the person knows is fraudulent, is fictitious, or has been revoked in the promotion of a business or with the intent to obtain certain benefits. An offense is punished as a class C misdemeanor (maximum fine of \$500).

DIGEST: SB 664 would allow an employer to discharge an employee if the employer determined, based on a reasonable factual basis, that the employee falsified or misrepresented the employee's military record in a way that constituted an offense under Penal Code, sec. 32.54 in obtaining employment or acquiring any benefit related to the employment.

It would not matter for the purpose of this bill whether the employee was employed under an employment contract. Any such contract would be void and unenforceable as against public policy if the employee were discharged for falsifying or misrepresenting a military record as described in the bill.

The bill would allow an employee who was employed under an employment contract on the date the employee was fired to bring suit against the employer for appropriate relief in a district court in the county

in which the firing occurred if the employee believed he or she had been wrongfully fired. Appropriate relief would include rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of employee benefits for which the employee otherwise would have been eligible had the employee not been fired.

The bill would take effect September 1, 2015, and would apply only to a termination that occurred on or after that date.

**SUPPORTERS
SAY:**

SB 664 appropriately would authorize an employer to fire a person who committed a crime in falsifying a military record to obtain employment or associated benefits. Currently, even though a person may be found guilty of having used a falsified military record, the person may still keep the job or the benefits secured with those falsified records. This bill would provide employers with clear authority to fire such an employee, regardless of any employment contract into which the employee may have entered.

The bill would ensure that those who had served their country honorably and were actually entitled to veterans benefits and hiring preference received that preference over individuals who had fraudulently claimed military service. Employees who use fictitious records should be held accountable to protect the interests of veterans.

The bill would not grant employers too much discretion to determine what constituted a reasonable factual basis for firing because the bill would require that the falsification or misrepresentation be considered an offense under the Penal Code. The rules determining what constitutes a criminal offense for this type of falsification of military records would be the employer's guide for determining whether sufficient factual basis existed to fire the employee.

The Legislature made it a crime in 2011 to falsify military service for the purpose of advertising one's business or attempting to secure some employment benefit or preference that is available to veterans. Employers should be able to terminate employment contracts that were secured by an employee who was committing a crime.

OPPONENTS
SAY:

The bill would be unnecessary and could run contrary to current labor laws. If an employee is an at-will employee, the employee currently could be fired at any time for any reason without the new rules provided in the bill. If an employment contract were signed, the parties would include provisions on just cause for firing, which could include resume fraud or misrepresentation of records if the parties chose to include those reasons. Also, allowing an employer to fire an individual based on the employer's interpretation of a reasonable factual basis could give the employer too much discretion to fire employees based on less than credible evidence.

SUBJECT: Changing deposit amount, property value eligible for binding arbitration

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — D. Bonnen, Y. Davis, Button, Darby, Murphy, Springer, Wray

2 nays — Martinez Fischer, C. Turner

2 absent — Bohac, Parker

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: *(On House companion bill, HB 3867)*

For — *(Registered, but did not testify:* Deborah Cartwright, Harris County Appraisal District; Cathy Dewitt, Texas Association of Business; James LeBas, Texas Apartment Association; Annie Spilman, National Federation of Independent Business-Texas)

Against — *(Registered, but did not testify:* Mark Mendez, Tarrant County Commissioners Court; Seth Mitchell, Bexar County Commissioners Court)

BACKGROUND: Tax Code, ch. 41 establishes a property owner's right to protest certain actions before the appraisal review board, including the appraised value of the owner's property. Chapter 42 gives the property owner a right to appeal an order of the appraisal review board determining a protest by the property owner under ch. 41. To appeal, the property owner must file a petition with the appropriate district court to review the determination.

Tax Code, ch. 41A offers an alternative to filing a petition with a district court for certain property owners. Under sec. 41A.01, a property owner is entitled to appeal the determination through binding arbitration if the original protest concerned the appraised value of the property or the unequal appraisal of the property and:

- the property qualifies as the owner's homestead; or
- the value of the property is \$1 million or less.

Tax Code, sec. 41A.03 requires a property owner wishing to appeal through binding arbitration to file a request and pay an arbitration deposit to the comptroller in the amount of \$500. Section 41A.05 allows the comptroller to retain 10 percent of that deposit, and sec. 41A.06 establishes that an arbitrator cannot agree to conduct an arbitration for a fee equal to more than 90 percent of that deposit.

DIGEST: SB 849 would increase the property value that would be eligible for binding arbitration and would change the arbitration deposit amount in those cases.

Property owners with properties valued at \$3 million or less, rather than \$1 million or less as under current law, could appeal through binding arbitration certain determinations made by an appraisal review board.

The bill would specify that the comptroller could retain \$50 of an arbitration deposit, instead of the 10 percent allowed under current law, to cover administrative expenses. The bill would set the amount of an arbitration deposit and the corresponding amount paid to an arbitrator as a fee. The amount of an arbitration deposit would be:

- \$450 for a homestead property valued at \$500,000 or less;
- \$500 for a homestead property valued at more than \$500,000;
- \$500 for a non-homestead property valued at \$1 million or less;
- \$800 for a non-homestead property valued at more than \$1 million but not more than \$2 million; or
- \$1,050 for a non-homestead property valued at more than \$2 million but not more than \$3 million.

The arbitrator's fee in each instance would be the amount of the arbitration deposit minus \$50 retained by the comptroller.

The bill would take effect September 1, 2015, and would apply only to a request for binding arbitration filed on or after that date.

SUPPORTERS SAY: SB 849 would offer a less expensive option for property owners to settle

certain disputes and would change arbitration deposits to better reflect the work required in each case. The current property value limit restricts access to binding arbitration for many owners who wish to appeal appraisal review board determinations. Owners of property valued over the limit are forced to file lawsuits, which can be expensive and take a substantial amount of time. The bill would decrease the number of lawsuits filed because it would allow more property owners access to binding arbitration, which is less expensive and faster than a lawsuit.

The bill would scale the amount of an arbitration deposit to match the amount of work that would be required in a certain case. For cases involving more expensive commercial property, the deposit would be greater because the case likely would be more complex and require more work than a lower valued home.

**OPPONENTS
SAY:**

SB 849 would increase the number of contested cases involving appraisal districts by allowing more property owners to appeal determinations through binding arbitration. This increase in cases would slow the entire resolution process because each appraisal district would be forced to respond to more appeals. The bill also would force appraisal districts to engage in binding arbitration more often, which generally results in less favorable outcomes for appraisal districts.

NOTES:

The House companion bill, HB 3867 by Elkins, was placed for second-reading consideration on the May 14 General State Calendar but not considered.

The Legislative Budget Board's fiscal note estimates that enactment of SB 849 would increase the value of the properties allowed to go to binding arbitration and would increase the number of binding arbitrations. However, the bill would not affect taxable property values, tax rates, collection rates, or any other variable that might affect the cost to the state through the operation of the school funding formula.

SUBJECT: Creating district courts and county courts at law; court administration

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Clardy, Laubenberg, Raymond, Schofield, Sheets, S. Thompson

0 nays

1 absent — Hernandez

SENATE VOTE: On final passage, April 27 — 30 - 0

WITNESSES: *(On House companion bill, HB 2768)*
For — *(Registered, but did not testify: Mike Hull, Texans for Lawsuit Reform; Donna Warndorf, Harris County)*

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council

DIGEST: CSSB 1139 would create several trial courts and would make changes to others.

Associate judges. The bill would provide procedures for appointment, reappointment, evaluation, and supervision of associate judges appointed to complete child support and protection cases. The procedures would apply to appointments and reappointments of associate judges on or after the bill's effective date.

The bill would require presiding judges to either reappoint current associate judges or appoint new associate judges to replace current associate judges by October 1, 2015.

District courts. CSSB 1139 would create seven new district courts as follows:

- the 446th District Court in Ector County on September 1, 2015;
- the 469th and 470th district courts in Collin County, which would hear family law matters, on September 1, 2015;
- the 505th District Court in Fort Bend County on September 1, 2015;
- the 507th District Court in Harris County on January 1, 2016;
- the 440th District Court in Coryell County on January 1, 2017; and
- the 451st District Court in Kendall County on January 1, 2017.

The bill would remove Kendall County from the existing 216th District Court on January 1, 2017. The bill would create a new district attorney for the 451st District Court and would add this prosecutor to the professional prosecutors act. The bill would abolish the office of county attorney of Kendall County, effective January 1, 2017.

The local administrative district judge for Coryell County would be selected on the basis of seniority from the district judges of the 52nd and 440th judicial districts.

The bill would move the beginning of the terms of the 52nd District Court from the first Mondays in January and June to the first Mondays in January and July.

County courts. The bill would create four statutory county courts at law as follows:

- a county court at law would be created in Cameron County on January 1, 2016. That court would give preference to probate, guardianship, and mental health matters;
- another county court at law would be created in Cameron County on January 1, 2018;
- a county court at law would be created in Collin County on September 1, 2015; and
- a county court at law would be created in Fort Bend County on January 1, 2016;

A county criminal court at law also would be created in Harris County on

January 1, 2016.

Under the bill, the clerk of the Hill County court at law would serve as the clerk for all probate and guardianship matters.

The bill would give county courts in Tarrant County jurisdiction on any non-criminal appeal from a municipal court of record in Tarrant County.

Under the bill, if a statute that establishes a multicounty statutory county court does not designate an administrative county, the county with the greatest population at the time the court is established would serve as the administrative county. The administrative county would coordinate with the state, commissioners courts, and the other counties in the court to provide support for the court. Under the bill, state compensation for salaries of the multicounty county court judges would be equal to the salaries of district court judges in the county.

The bill would remove Mitchell County from the 1st multicounty court at law on January 1, 2019, and would make Nolan County the administrative county on the effective date.

The bill would remove Aransas County from the 36th judicial district.

The county attorneys of Aransas and Guadalupe counties would have the duties and powers of district attorneys. The Aransas county attorney would have these powers and duties on the effective date of the bill. The Guadalupe county attorney would have them on January 1, 2017.

The bill would abolish the office of district attorney for the 25th judicial district, which includes Gonzales, Guadalupe, and Lavaca counties, on January 1, 2017.

Filing fees. CSSB 1139 would increase the filing fee for civil actions in certain courts in the state from \$20 to \$30.

Bailiffs. The bill would require that at least one bailiff be assigned regularly to each county court at law and certain family district courts in Tarrant County. The bill would provide for the bailiff's term of office,

duties, assignment by the sheriff and compensation.

Criminal law magistrate courts; criminal law hearing officers; juvenile board. The bill would expand the jurisdiction, duties, and authority of the El Paso Criminal Law Magistrate Court in several ways including:

- giving the court concurrent jurisdiction with certain other courts in the county in certain cases;
- giving the court jurisdiction over offenses allegedly committed in Vinton, Texas;
- allowing the court to hold indigency and capias pro fine hearings;
- allowing transfer of certain cases to and from the court;
- expanding options for pretrial diversion programs;
- allowing the court to be held at more than one location; and
- allowing defendants to be brought before the court via videoconference in certain cases.

The bill also would expand the authority of a criminal law hearing officer in Cameron County in various ways, including:

- giving the hearing officer jurisdiction over extradition proceedings under the Uniform Criminal Extradition Act;
- allowing the hearing officer to accept pleas of guilty or nolo contendere;
- allowing the hearing officer to appoint counsel for a defendant that the officer found was indigent; and
- allowing certain proceedings to be referred to the hearing officer by district and county court judges in Cameron County.

The bill would add a judge of the county court at law of Atascosa County to the juvenile board of Atascosa County.

Temporary justices. The bill would authorize the county judges of certain counties to appoint a qualified person to serve as a temporary justice of the peace for precincts within certain municipalities.

Telephone interpreter services in criminal proceeding. Under certain conditions, qualified telephone interpreters could be sworn in to interpret for a person in any criminal proceeding before a judge or magistrate.

Courts authorized to hear matters related to *capias pro fine*. Under the bill, if a court that issued a *capias pro fine* was unavailable, an arresting officer could take the defendant to another court in the same county with concurrent jurisdiction, or in certain circumstances to a justice of the peace or county criminal law magistrate in the same county, in lieu of jail. The bill would allow certain justices, magistrates and municipal court judges to conduct certain hearings when defendants failed to pay misdemeanor fines and the court that issued the *capias pro fine* was not available.

Effective date. Except as otherwise provided, CSSB 1139 would take effect September 1, 2015.

SUPPORTERS
SAY:

CSSB 1139 would ensure that the state had adequate judicial resources available to provide for the proper administration of the judiciary.

Each new court in the bill is justified based on need and supported by objective workload data provided by the Office of Court Administration (OCA). The OCA considered many factors when recommending additional district courts, including the estimated FTEs needed based on a weighted caseload study, the extent to which the courts employed associate judges to assist with the workload, the increase or decrease in total case filings in recent years, the date the last court was created, and other measures.

The OCA also considered a number of factors when recommending additional county courts, including the average number of cases added during the past two years, the increase or decrease in total case filings during recent years, and the rate of dispositions versus filings during recent years.

OPPONENTS
SAY:

The state should be careful when creating long-term funding obligations that may only have a local impact. According to the fiscal note, SB 1139 would cost more than \$3 million during fiscal 2016-17 in salaries, salary

supplements, and other support costs.

NOTES: CSSB 1139 differs from SB 1139 as engrossed by the Senate in various ways, including that the committee substitute would:

- add provisions related to associate judges for child support and child protection cases;
- require the 469th and 470th district courts in Collin County to hear family law matters;
- increase the filing fee for certain civil cases;
- add provisions related to temporary justices; and
- amend the provision related to procedures for capias pro fine hearings.

According to the Legislative Budget Board's fiscal note, the bill would result in a negative impact to general revenue related funds of about \$3.1 million during fiscal 2016-17.

The House companion bill, HB 2768 by Smithee, was considered in a public hearing of the Judiciary and Civil Jurisprudence Committee on April 7 and left pending.

SUBJECT: Limited-period sales tax exemption for certain water-efficient products

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — D. Bonnen, Y. Davis, Bohac, Button, Darby, Martinez Fischer, Murphy, Springer, C. Turner, Wray

0 nays

1 absent — Parker

SENATE VOTE: On final passage, May 4 — 20–11 (Birdwell, Burton, Campbell, Fraser, Garcia, Hall, Hancock, Huffines, Kolhorst, L. Taylor, V. Taylor)

WITNESSES: *(On House companion bill, HB 2492)*
For — *(Registered, but did not testify:* Heather Cooke, City of Austin, Austin Water; Michael Diamond, Scotts Miracle Gro Co.; Steven Garza, Texas Association of Realtors; Billy Howe, Texas Farm Bureau; Mike Howe, Texas Section American Water Works Association; Scott Norman, Texas Association of Builders; Jim Reaves, Texas Nursery and Landscape Association; Ronnie Volkening, Texas Retailers Association; David Weinberg, Texas League of Conservation Voters; Brian Yarbrough, The Home Depot)

Against — None

BACKGROUND: Tax Code, sec. 151.333 lists energy-efficient products, such as certain air conditioners, clothes washers and ceiling fans, that are exempt from sales tax during Memorial Day weekend. The exemption begins at 12:01 a.m. on the Saturday preceding the last Monday in May and ends at 11:59 p.m. on the last Monday in May.

DIGEST: SB 1356 would specify that certain water-efficient products certified as “WaterSense” would be exempted from sales tax during the Memorial Day weekend tax holiday period for other energy-efficient items under Tax Code, sec. 151.333(c). A WaterSense product is a product certified under the WaterSense program operated by the U.S. Environmental

Protection Agency or a similar successor program.

The bill would take effect July 1, 2015, if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect October 1, 2015.

**SUPPORTERS
SAY:**

SB 1356 would contribute to water conservation efforts by encouraging the purchase of WaterSense products just in time for the hot, dry months of summer. Water conservation is important for Texas, given the drought conditions that have afflicted the state for so long. Making certain water-efficient products eligible for the tax holiday that already covers energy-efficient items would be a simple and effective way to encourage water conservation.

Increasing water conservation also would save consumers money over the long run. The bill would use the WaterSense program because it has a proven track record of effectiveness. By one estimate, this program has helped consumers nationally save a cumulative 757 billion gallons of water and more than \$14.2 billion in water and energy bills since 2006.

Meanwhile, because of the limited nature of the tax holiday, the bill would place no significant burden on businesses or individuals in terms of the distribution of taxes or fees in the state.

**OPPONENTS
SAY:**

This bill would further distort the free market by incentivizing the purchase of some items over others. By specifically targeting certain Environmental Protection Agency-certified products, it might benefit certain vendors unfairly. The government should not be in the business of picking winners and losers when it comes to products or services being sold on the market. If government wants to encourage purchasing, it should lower the overall tax burden to allow people to buy more in general.

While some tax exemptions might be appropriate, this bill would go too far in expanding the state tax holiday. A tax exemption on school supplies, for example, makes sense because children are required to attend school, but this bill would give tax breaks for voluntary purchases. The government does not need to give people incentives to shop.

OTHER
OPPONENTS
SAY:

The bill would lower revenue to the state with this sales tax exemption. The state has many other priorities that need funding, such as schools and transportation, and cannot afford to provide tax breaks for certain products that would reduce available state revenues by what the bill's fiscal note estimates could be more than \$2 million per fiscal year.

NOTES:

The House companion bill, HB 2492 by Darby, was placed on the General State Calendar for May 13 but was not considered.

The Legislative Budget Board's fiscal note estimates that the bill would have a negative impact of about \$4.3 million to general revenue related funds through fiscal 2016-17.

SUBJECT: Applying mass gatherings act to certain horse, greyhound races

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — Smith, Gutierrez, Geren, Goldman, Guillen, Kuempel, Miles, D. Miller, S. Thompson
0 nays

SENATE VOTE: On final passage, April 21 — 25-5 (Bettencourt, Burton, Creighton, Huffines, Nelson)

WITNESSES: For — Micah Harmon, Sheriffs' Association of Texas; (*Registered, but did not testify*: Roy Boyd, R. Glenn Smith, and AJ Louderback, Sheriffs' Association of Texas; Aurora Flores and Laura Nicholes, Texas Association of Counties)
Against — None

BACKGROUND: The Texas Mass Gatherings Act, under Health and Safety Code, ch. 751, prohibits a person from promoting a mass gathering without a permit issued under the chapter. A mass gathering is defined as a gathering that:

- is held outside of a city's limits;
- attracts or is expected to attract more than 2,500 people; or more than 500 if 51 percent or more of the individuals can reasonably be expected to be younger than 21 years old and it is planned or can reasonably be expected that alcohol will be sold, served, or consumed; and
- is expected to go on for more than five continuous hours or any amount of time between 10 p.m. and 4 a.m.

Applications for permits must be filed at least 45 days before an event with the county judge of the county in which the mass gathering will be held. The county judge is required to send a copy of the application to the county health authority, the sheriff, and the county fire marshal or other

person designated to act for the fire marshal. These authorities are required to investigate preparations for the gathering and report on them to the county judge. The county judge is required to hold a hearing on applications for mass gatherings, after which the judge must grant or deny the permit. Commissioners courts can collect a fee for inspections related to the gathering.

Under sec. 751.011, it is a misdemeanor offense to fail to get a required permit. The offense is punishable by a fine of up to \$1,000, confinement in the county jail for up to 90 days, or both.

DIGEST: SB 917 would apply the mass gatherings act to a horse or greyhound race that attracted or was expected to attract at least 100 persons. The bill would not apply if a race was held at a location authorized under the Texas Racing Act for pari-mutuel wagering. The bill would not legalize any activity prohibited under the Penal Code or any other state law.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: SB 917 would help ensure that horse and greyhound races that are legal but unregulated by counties and that are occurring in rural Texas take place in a safe manner. These “brush tracks” can attract crowds and raise concerns about public safety, public health, and traffic, but counties may be unable to address the concerns if the crowds are sizeable but smaller than the current thresholds for the mass gatherings act. While some of these tracks are more established, in some cases county officials may not be aware of when the races will take place, and some races may occur behind locked gates. At some races, activities such as illegal drug or alcohol sales may take place.

SB 917 would address this gap in the law by requiring horse or greyhound races that attract a minimum of 100 persons to comply with the mass gatherings act. The threshold would be set at 100 to exclude smaller events but to encompass public gatherings at which safety, traffic, and other concerns could arise in a rural area. The bill would be a reasonable, narrow extension of current law that would ensure that county officials were notified so public health and safety concerns could be identified and addressed.

The bill would not outlaw these events, nor would it permit any currently illegal activity. It would not encourage or legitimize any illegal gambling or other activities, which would continue to be addressed as they are under current law. The bill would not apply to state-licensed pari-mutuel race tracks.

OPPONENTS
SAY:

The state should not expand the powers of county governments to cover events that currently do not meet the thresholds of the mass gathering act. Horse and greyhound races that meet the current thresholds should be held to the requirements of the act, but the thresholds should not be adjusted significantly downward, from 2,500 to 100, to capture one type of event occurring on private property. Illegal activities occurring at such gatherings should be dealt with under current law, rather than by expanding local governments' authority under the mass gatherings act.

OTHER
OPPONENTS
SAY:

Bringing small horse and greyhound races occurring on private property under the mass gatherings act and requiring them to get permits could further any illegal gambling at the event if patrons saw the races as having an air of legitimacy.

SUBJECT: Accepting certain training courses to satisfy food handler requirements

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Crownover, Naishtat, Blanco, Guerra, R. Miller, Sheffield, Zedler, Zerwas

0 nays

3 absent — Coleman, Collier, S. Davis

SENATE VOTE: On final passage, April 9 — 31-0, on local and uncontested calendar

WITNESSES: For — Richie Jackson, Texas Restaurant Association; (*Registered, but did not testify*: Brian Sullivan, Texas Hotel and Lodging Association; Jim Sheer, Texas Retailers Association; Michael Garcia, the Texas Lobby Group)

Against — (*Registered, but did not testify*: Nancy Williams, City of Austin; Lindsay Lanagan, City of Houston; Jeff Coyle, City of San Antonio; Mark Mendez, Tarrant County Commissioners Court)

On — Duane Galligher, Texas Environmental Health Association; (*Registered, but did not testify*: Christopher Sparks, Department of State Health Services; Donna Warndorf, Harris County)

BACKGROUND: Health and Safety Code, ch. 438, subch. D governs food service programs, including food handler training programs. Sec. 438.046 requires the Department of State Health Services to maintain a registry of accredited programs for persons employed in the food service industry. This section also provides requirements related to the fees that a local health jurisdiction may charge for a certificate issued to a food service worker trained by an accredited course.

DIGEST: CSSB 582 would establish that a food service worker who had been trained in a food handler training course accredited by the American National Standards Institute had met a local health jurisdiction's training,

testing, and permitting requirements. A local health jurisdiction could require a food establishment to maintain on the premises a certificate of completion of the training course for employees.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSSB 582 would simplify the process for food handlers and employers at food establishments who sought to establish that proper food handler training requirements had been met. Proof that such requirements have been met is important during health and safety inspections of food establishments.

Some local health jurisdictions charge food service workers a registration or permitting fee associated with providing certification that they have the appropriate food handling training for a job. The bill would protect food service workers from paying unnecessary and duplicative charges to register their credentials at more than one local health department should they change jobs or work in several jurisdictions. At the same time, the bill would not amend current law allowing a local authority to charge reasonable, administrative fees.

The bill would allow food establishments to keep food handler training certificates on site for review by local health inspectors. Completion of American National Standards Institute (ANSI)-accredited courses is easy to verify using QR codes, which can be read on a smart phone or by calling the course provider to check authenticity.

**OPPONENTS
SAY:**

CSSB 582 would favor courses offered by ANSI-accredited vendors to the detriment of those who offer other state-approved training courses, even though these courses are based on ANSI standards and essentially provide the same training. As a result of the bill, over time, other vendors could lose students and revenue. The bill could discourage workers from taking on-site courses offered and preferred by many local health jurisdictions.

The bill also should explicitly address fees for food handler training, permitting, or registration. If they were unable to charge registration fees

for employees who took ANSI-accredited courses, local health jurisdictions might not have the resources to perform their duties properly.

NOTES: CSSB 582 differs from the Senate engrossed version of the bill in that the Senate engrossed version would:

- prohibit a local health jurisdiction from charging a fee for a certificate issued to a food handler trained by an accredited course;
- prohibit the Department of State Health Services from adopting a rule that required food service workers in the state to complete a food handler training course; and
- specify that a food service worker trained in a course offered or permitted by a local health jurisdiction was considered to have met requirements as to food service performed only in that jurisdiction.

SUBJECT: Governance, administration of Texas Water Resources Finance Authority

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 9 ayes — Keffer, Ashby, D. Bonnen, Frank, Kacal, T. King, Larson,
Lucio, Workman

0 nays

2 absent — Burns, Nevárez

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: No public hearing

BACKGROUND: The Texas Water Resources Finance Authority (authority) is established under Texas Water Code, ch. 20, to increase the availability of financing for the conservation and development of water resources by purchasing bonds.

Sec. 20.012(a) refers to the authority being governed by a board of directors composed of the six directors of the Texas Water Development Board (TWDB). The composition of the TWDB's governing body was recently changed from six directors to three.

DIGEST: SB 1301 would amend Texas Water Code, sec. 20.012(a) by removing a reference to the governing body of the Texas Water Development Board as having six directors.

The bill also would allow a special meeting of the Texas Water Resources Finance Authority to be called on request of a majority, rather than three or more, of the directors.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SB 1301
House Research Organization
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SUPPORTERS SAY:	SB 1301 would update the statute on the governance and administration of the Texas Water Resources Finance Authority (authority) to reflect recent changes to the composition of its board. Texas Water Code, sec. 20.012(a) refers to the authority being governed by a board of directors composed of the “six directors of the Texas Water Development Board (TWDB).” However, the composition of the TWDB’s governing body was recently changed from six directors to three. This bill merely would correct the statute to reflect this change.
OPPONENTS SAY:	No apparent opposition.
NOTES:	The House companion bill, HB 1223 by Lucio, was referred to the House Natural Resources Committee on March 3.

SUBJECT: Establishing a multidisciplinary studies associate degree program

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 8 ayes — Zerwas, Howard, Alonzo, Crownover, Martinez, Morrison, Raney, C. Turner

0 nays

1 absent — Clardy

SENATE VOTE: On final passage, April 16 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Garrett Groves, Center for Public Policy Priorities; Mike Meroney, Huntsman Corp., BASF Corp., Sherwin Alumina, Co.; Bill Hammond, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Michael White, Texas Construction Association; Les Findeisen, Texas Trucking Association; Melody Chatelle, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, ch. 61, subch. S governs transfer of credit between higher education institutions and requires the Texas Higher Education Coordinating Board to encourage the transferability of lower-division course credit among institutions.

Under sec. 61.822, institutions of higher education are required to develop a core curriculum of 42 semester credit hours that, if completed by students, can be fully transferred as a block for credit toward any other institution's core curriculum.

Sec. 51.762 requires the creation of a common admission application form to be used by all persons seeking admission as freshmen to certain higher

education institutions in the state, including general academic teaching institutions and other institutions admitting freshman-level students.

DIGEST: CSSB 1189 would establish a new multidisciplinary studies associate degree program at each public junior college in the state. Each public junior college would be required to begin offering the multidisciplinary studies associate degree program by the 2016 fall semester.

Students working toward this degree would be required to successfully complete the 42-hour core curriculum adopted by the college under Education Code, sec. 61.822, as well as courses in a student's selected degree plan. Students would meet with an academic advisor to complete a degree plan at the beginning of the semester or term after a student earned 30 or more credit hours toward a multidisciplinary studies associate degree. This degree plan would account for all remaining credits a student needed to complete the degree. The degree plan also would emphasize the student's transfer to a particular four-year college or university of the student's choosing and preparation for the student's intended field of study or major at the chosen college or university.

The Texas Higher Education Coordinating Board would be required to develop necessary rules as soon as practicable after the effective date of the bill to ensure that each public junior college created the new degree program and that the common application form used by higher education institutions under Education Code, sec. 51.762 contained a description of the degree program.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

CSSB 1189 would help students more effectively transfer credits from community colleges to four-year institutions and earn baccalaureate degrees without earning extraneous credits.

Difficulty transferring credit from community colleges to four-year institutions remains one of the largest barriers to timely college completion. Many transfer students end up transferring few credits, accumulating more credits than they can effectively transfer, or transferring credits that do not count toward a degree. This can increase tuition costs, extend the time to degree completion, or encourage students to drop out, which can waste student, family, and taxpayer money. These challenges are due in part to a lack of information and an overall degree strategy.

CSSB 1189 would address these issues by leveraging existing transfer policies to offer an associate-level credential geared toward efficient transfer to a four-year degree program. The bill would help inform students and assist them in charting a course to a four-year degree by requiring them to work with an academic advisor early in their academic progress. By developing a degree plan specifically tailored to specific schools' four-year degree programs, students could avoid earning credits that did not count toward their major or that were lost in transfer. The bill also would help students prepare for and earn course credit toward a specific degree under their degree plan in addition to the existing 42-hour core curriculum.

**OPPONENTS
SAY:**

CSSB 1189 could better help transferability of credits by narrowing the focus of the 42-hour core curriculum to only those courses that students truly need to transfer into a major at the baccalaureate program of their choice. For example, a student who does not wish to major in history should not be required to earn history credits. Such a reform could help ensure that students were investing their time and money, as well as taxpayer money, only in courses applicable to their majors. It also could focus students on courses that would prepare them to graduate more ready for the workforce.

NOTES:

CSSB 1189 differs from the Senate engrossed version of the bill in that the House substitute would change the name of the program required in

the bill from the “transfer associate degree program” to the
“multidisciplinary studies associate degree program.”

SUBJECT: Repealing the 2 percent excise tax on fireworks

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — D. Bonnen, Button, Darby, Murphy, Springer, C. Turner, Wray
2 nays — Y. Davis, Martinez Fischer
2 absent — Bohac, Parker

SENATE VOTE: On final passage, March 31 — 30-0

WITNESSES: *(On House companion bill, HB 2113)*
For — Trey Blocker, State Firefighters' and Fire Marshals' Association;
(Registered, but did not testify: Eric Glenn, Texas Pyrotechnic Association)

Against — None

On — *(Registered, but did not testify: Karey Barton and Tom Currah, Texas Comptroller of Public Accounts)*

BACKGROUND: In 2001, the 77th Legislature enacted HB 3667 by Cook, which created the Rural Volunteer Fire Department Insurance Fund, an account within general revenue funded by a 2 percent sales tax on fireworks sold in the state. Under Government Code, ch. 614, subch. F, money from this account may be directed to rural volunteer fire departments to pay for accidental death, disability, and workers' compensation insurance. The Texas Forest Service administers this account.

DIGEST: SB 761 would eliminate the 2 percent tax on fireworks sales and replace the revenue from the tax currently directed to the Rural Volunteer Fire Department Insurance Fund with money from general revenue.

It would require the deposit of an amount equal to the revenue derived from the collection of taxes at the rate of 2 percent on each sale at retail of fireworks to the insurance fund. The comptroller would determine this

amount based on statistical data indicating the estimated or actual total receipts in this state from taxes imposed on sales at retail of fireworks.

The bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

**SUPPORTERS
SAY:**

SB 761 would increase state revenue because the fireworks tax imposes a large opportunity cost on the comptroller's resources. Resources now spent administering and enforcing the fireworks tax would generate more revenue if redeployed to audit or enforcement activities for other taxes.

This bill also would provide a stable funding source for the insurance fund, allowing the Texas Forest Service more flexibility and foresight when issuing decisions on requests for assistance. Allocations from general revenue would be more frequent and more reliable than funds deposited from the collection of the fireworks tax, which varies seasonally.

The fireworks tax represents a significant administrative and fiscal burden on fireworks retailers, many of which are small businesses run by families. This bill would allow them to allocate their resources more efficiently and keep more of their hard-earned profits.

Businesses already pay their fair share through a number of taxes — this bill would merely eliminate one of them. Consumers, small businesses, and the state would be better off eliminating this unnecessary tax because it generates too little revenue to offset the administrative opportunity cost.

**OPPONENTS
SAY:**

SB 761's elimination of the fireworks tax would have a direct negative impact on revenue, and the state should not cut revenue when it faces needs in critical areas, such as education and transportation.

This bill would eliminate a tax on the grounds that it does not bring in sufficient revenue to offset the time spent collecting it. However, a tax that is comparatively less cost-effective to collect should not necessarily be eliminated. Businesses should all pay their fair share because they benefit from the same system of legal protections established and enforced by the state government.

NOTES: The Legislative Budget Board's fiscal note estimates that SB 761 would have a negative impact of about \$2.9 million through fiscal 2016-17.

The House companion bill, HB 2113 by Murphy, was reported engrossed on April 22 and referred to the Senate Committee on Administration on May 19.

SUBJECT: Requirements for off-campus jobs in the college work-study program

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Zerwas, Howard, Alonzo, Crownover, Martinez, Morrison,
Raney, C. Turner

0 nays

1 absent — Clardy

SENATE VOTE: On final passage, April 16 — 29-2 (Burton, Hall)

WITNESSES: (*On House companion bill, HB 2365*)

For — Trevor McGuire, Texas Public Policy Foundation; Nelson Salinas, Texas Association of Business; Chandra Villanueva, Center for Public Policy Priorities; (*Registered, but did not testify*: Yannis Banks, Texas NAACP; Dana Harris, Greater Austin Chamber of Commerce; Max Jones, The Greater Houston Partnership; Rick Levy, Texas AFL-CIO; Celina Moreno, MALDEF; Annie Spilman, National Federation of Independent Business-Texas)

Against — None

On — Ken Martin, Texas Higher Education Coordinating Board;
(*Registered, but did not testify*: Decha Reid, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code, ch. 56, subch. E governs the Texas college work-study program, which was established to provide eligible, financially needy students with jobs partially funded by the state to enable them to obtain private or public postsecondary education. The Texas Higher Education Coordinating Board is responsible for administering the program.

Under Education Code, sec. 56.076, higher education institutions may enter into agreements with eligible employers to offer part-time employment under the work-study program. Rules under 19 Texas

Administrative Code, part 1, sec. 21.405 specify that these agreements may be made with outside employers. These employers must offer employment that is nonpartisan, nonsectarian, and related to the student's academic interests, if practicable. The positions must supplement, and not replace, positions normally filled by others not eligible for the work-study program.

Eligible employers must provide a percentage of a student's wages, the remainder of which is made up of state funds appropriated for the program. Nonprofit employers are responsible for contributing at least 25 percent of a student's wages, while for-profit employers are responsible for contributing at least 50 percent.

DIGEST: SB 1750 would require each institution of higher education to ensure that up to 50 percent of all employment positions provided through the work-study program each academic year were provided by eligible employers offering employment off campus.

Institutions would be required to comply with the changes to the Texas College work-study program beginning with the 2016-17 academic year.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: SB 1750 would help improve Texas' already strong work-study program by stimulating off-campus work-study opportunities. Although institutions of higher education may partner with off-campus entities under current law, all work-study positions in the state at this time are on campus.

The bill would better align the work-study program with one of its intended purposes — to help financially needy students gain employment experience in their academic areas of interest. By promoting off-campus work-study opportunities, SB 1170 would allow students to gain workforce readiness in a greater diversity of settings that more likely would be related to their academic interests and future careers. In addition, financially needy students often are unable to take advantage of opportunities such as unpaid or low-paying internships, while their peers

of means gain valuable work experience and training for future employment. SB 1750 would help level this playing field.

SB 1750 could help off-campus businesses train and identify their future workforce. It also could lead to the work-study program serving more students, because for-profit employers contributing 50 percent of each student's salary essentially could employ two workers for the price of one. However, the bill would not require any business to host work-study students if it did not feel the investment was worthwhile. Participating employers would be fully aware of the academic demands of their student workers, and the shared-salary model should offset any concerns about employers not accommodating students' needs.

The bill would not place institutions of higher education in a position of using state funding to pick winners and losers. Public institutions currently can exercise local control in partnering with employers to provide a learning experience to students and fulfill workforce needs, and these decisions would remain with the individual schools, not the state.

SB 1750 is intended to create some off-campus work-study positions while allowing smaller schools to adjust the number of slots to what was feasible for their area. Some schools would approach closer to the 50-percent limit than others.

**OPPONENTS
SAY:**

SB 1750 may have positive intentions, but the mechanism for its implementation could have negative consequences.

Work-study positions on campus allow students to work in an environment where their academic demands are understood and accommodated, but off-campus jobs may not be as flexible or supportive. In addition, financially needy students may have difficulty finding transportation to off-campus jobs.

On the one hand, SB 1750 would require institutions to select winners and losers among businesses who might be interested in receiving cheap, state-subsidized employees through the work-study program. At the same time, SB 1750 might not present a great bargain to businesses that hired work-study students without much knowledge and experience. Businesses

that created new positions and trained these students might not be able to hire them until two or three years later.

Smaller schools in rural areas might have difficulty providing up to 50 percent of all work-study placements off-campus. In addition, the work-study program traditionally provides state-subsidized student positions on campus to help fill essential needs, such as staffing libraries. By losing these work-study slots to off-campus placements, schools might struggle to afford to fill these positions, which could lead to cost-shifting in other areas.

OTHER
OPPONENTS
SAY:

SB 947 by Zaffirini would offer a better initial course of action for a proposal of this sort to change the work-study program. The bill would require a feasibility study on creating off-campus work-study opportunities, which would be a good first step toward identifying and studying certain implementation issues and best practices.

NOTES:

The House companion, HB 2365 by Murphy, was considered in a public hearing of the House Committee on Higher Education on April 22 and was left pending.

SUBJECT: Providing data about unclaimed proceeds from oil and gas leases

COMMITTEE: Energy Resources — favorable, without amendment

VOTE: 8 ayes — Darby, Paddie, Canales, Dale, P. King, Landgraf, Meyer,
Riddle

0 nays

5 absent — Anchia, Craddick, Herrero, Keffer, Wu

SENATE VOTE: On final passage, April 16 — 30 - 1 (Creighton)

WITNESSES: *(On House companion bill, HB 1575)*

For — Lance Bruun, Unclaimed Mineral Proceeds Commission

Against — Tricia Davis, Texas Royalty Council; *(Registered, but did not testify: Lindsey Miller, Texas Independent Producers and Royalty Owners Association; James LeBas and Mari Ruckel, Texas Oil and Gas Association)*

On — Bryant Clayton, Comptroller of Public Accounts; *(Registered, but did not testify: Frances Torres, Comptroller of Public Accounts)*

BACKGROUND: The Unclaimed Mineral Proceeds Commission was created by the Legislature in 2013 through the enactment of HB 724 by Guillen. Its purpose is to provide recommendations regarding the distribution of unclaimed mineral proceeds derived from original Spanish and Mexican land grants. The commission reported in its recommendations for legislative action during the past interim that the comptroller has held more than \$609 million in proceeds from leases of mineral rights, such as oil and natural gas. About \$199 million of that amount has been claimed, leaving \$410 million currently unclaimed.

Property Code, sec. 74.101 requires a person who holds property that is presumed abandoned to file a report of that property. The property report must include certain information, including personal information about

the owner, a description of the property, and the date that the property became payable, demandable, or returnable.

DIGEST:

SB 1589 would require oil and gas companies that hold unclaimed payments for oil and gas leases to include certain information in the property report for the proceeds. Specifically, the property report would have to include:

- the lease, property, or well name;
- a lease, property, or well identification number; and
- the county in which the lease is located.

The bill would make this information confidential and not subject to disclosure under an open records request.

The bill would also require the comptroller to compile a list, categorized by county, which included the number of property reports and the aggregate amount of mineral proceeds attributable to all wells in each respective county. This list would be available to the public.

This bill would take effect January 1, 2016, and would apply only to a report filed on or after that date.

**SUPPORTERS
SAY:**

SB 1589 would speed the collection of unclaimed property by making the data in the property report more extensive and more useful. The Unclaimed Mineral Proceeds Commission notes that the comptroller could require oil companies to report property-specific information for unclaimed property, some of which is already required for check-stub reporting. This bill would do exactly that, enabling the rightful holders to better and more quickly recover the proceeds that were due them.

This bill would resolve concerns posed by opponents to the House companion. The House companion, HB 1575, would require submission of some information that is not currently associated with oil and gas lease records kept by operators. Retooling the records-keeping systems to include this information would impose compliance costs on the businesses, and SB 1589 would alleviate these concerns by requiring property reports to include only information that is already associated with

oil and gas lease records.

The bill also includes specific provisions that would provide for the confidentiality of the information submitted.

OPPONENTS
SAY:

No apparent opposition.

NOTES:

The House companion bill, HB 1575 by Guillen, was placed for second-reading consideration on the May 12 General State Calendar but was not considered.

SB 1589 differs from the House companion in that the Senate bill would not require the property report to include the General Land Office abstract number or global positioning system coordinates for the location of the well. It also would specify that the information included was confidential and not subject to disclosure under open records requests. The House companion would not require the comptroller to compile a list by county of the number of reports and the aggregate amount of mineral proceeds.

SUBJECT: Rights of certain religious organizations, individuals relating to marriage

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Cook, Farney, Geren, Harless, Huberty, Kuempel, Minjarez,
Smithee

1 nay — Farrar

4 absent — Giddings, Craddick, Oliveira, Sylvester Turner

SENATE VOTE: On final passage, May 12 — 21–9 (Garcia, Hinojosa, Menéndez,
Rodríguez, Uresti, Watson, West, Whitmire, Zaffirini)

WITNESSES: *(On House companion bill, HB 3567)*

For — Billy Sutherland, Calvary Baptist Church; Gregory Young, Chosen Generation Radio, Family Christian Center Bandera Texas; Agustin Reyes, Christian Life Commission, Texas Baptists; Dana Hodges, Concerned Women for America of Texas; Kyle Henderson, First Baptist Athens, Texas Baptists; Brent Taylor, First Baptist Church Carrollton; Shannon Talley, First Baptist Church, McAllen; Kris Segrest, First Baptist Church, Wylie; Thad Murphy, Forestburg Baptist Church; John Postel, God and Country Church Fellowship; Steve Riggles, Grace Community Church, Grace International Churches and Ministries; Danny Forshee, Great Hills Baptist Church; Bryan Payne, Harvest Bible Chapel of Austin; Ericka McCutcheon, Joint Heirs Fellowship Church; Justin Butterfield, Liberty Institute; David Turner, Little Cypress Baptist; Tony Pittman, Oakmeadows Community Worship Center; Charles Kimbley, Southern Baptist of Texas, Ethics and Religious Liberty Committee; Gary Ledbetter, Southern Baptists of Texas; Charles Burchett, Texas Advisory Committee to the United Commission on Civil Rights, Sabine Neches Baptist Area, Somebody Cares America, First Baptist Church of Kirbyville; Bob Jones, Texas Black Clergy Network; Jeff Patterson, Texas Catholic Conference of Bishops; David Welch, Texas Pastor Council Action; Charles Flowers, the Gathering of Pastors and Leaders, San Antonio Association of Churches, San Antonio Human Rights Coalition; Khanh Huynh, Vietnamese Baptist Church; Steven Branson, Village

Parkway Baptist Church; and 10 individuals; (*Registered, but did not testify*: Father Francis, Anglican Catholic Church, St. Philip's Parish Austin, Texas; James King, Assembly of Yahweh Churches in Texas; Isaac Duke, Brazos Covenant Ministries; Larry Tarver, Clearfork Baptist Church; Jeffrey Strickland, Colleyville Assembly of God; Lanora Read, Cindy Asmussen, Ann Hettinger, and Cecilia Wood, Concerned Women for America of Texas; Glenna Hodge, Conservative Republicans of Texas; Paula Moore, CWA Texas; Marida Favia del Core Borromeo, Exotic Wildlife Association; Johnny Burk, Father's House of Fannett, Inc.; Donald Wills, First Baptist Church of Fort Worth; Bubba Stahl, First Baptist Church, Kingsland, TX; Angela Smith, Fredericksburg Tea Party; Alton Smith, Global Network of Christian Ministries; Scott Jones, Grace Church of Humble, the Global Network of Christian Ministries; Billy Burton, Grace International Ministries of Texas; Darrell Mathis, Hilltop Family Church; Kie Bowman, Hyde Park Baptist Church; John McCutcheon, Joint Heirs Fellowship Church; Ed Jennings, Lake Area Pastors Counsel; Matthew Miller, Lone Star Cowboy Church Montgomery; Scot Wall, Magnolia Bible Church, Greater Houston Bible Church Association; Keith Collier, Southern Baptists of Texas; Bruce Ammons, Sugar Creek Baptist Church; Nathan Keller, Sugar Land Family Church; Jack Berg, Sunvalley Baptist Church; Pat Carlson, Texas Eagle Forum; Jeremy Newman, Texas Home School Coalition; Jonathan Saenz, Texas Values Action; Kyle Clayton, the Church at Quail Creek; Kevin Herrin, the Fellowship of Texas City; Allan Parker, the Justice Foundation; Ronnie Bates, the Light Community Fellowship; Glenn Holland, the Net Fellowship Church, Corpus Christi, TX; Jennifer Allmon, the Texas Catholic Conference of Bishops; Marty Reid, Trinity Family Church; Cody Haynes, TXAP; and 28 individuals)

Against — Chuck Smith, Equality Texas; Katherine Miller, Texas Freedom Network; Jay Brim and Joshua Houston, Texas Impact; Chuck Freeman, Texas Unitarian Universalist Justice Ministry; Jarell Wilson, University United Methodist Church; Jim Rigby; Heather Ross; Kyle Walker; (*Registered, but did not testify*: Victor Cornell, American Civil Liberties Union of Texas; Amanda Williams, Lilith Fund; Jeffrey Knoll, and Jeff Davis, Log Cabin Republicans of Austin; Drew Stanley, Naral Pro Choice Texas; Susan Pintchovski, National Council of Jewish Women - Austin; Ana DeFrates, National Latina Institute for Reproductive Health;

Lucy Stein, Progress Texas; Matthew Slaughter, Secular Texas; Peggy Morton, Texas Unitarian Universalist Justice Ministry; Jan Soifer, Travis County Democratic Party; and 35 individuals)

On — Brantley Starr, Office of the Attorney General

BACKGROUND: Family Code, ch. 2 contains provisions related to the marriage relationship.

DIGEST: SB 2065 would add new language to the Family Code that would prevent religious organizations, employees, and clergy from being required to solemnize any marriage that would cause the organization or individual to violate a sincerely held religious belief. Religious organizations, employees, and clergy also would not be required to provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if it would cause the organization or individual to violate a sincerely held religious belief.

The protections would cover:

- a religious organization;
- an organization supervised or controlled by or in connection with a religious organization;
- an individual employed by a religious organization while acting in the scope of that employment; or
- a clergy or minister.

A refusal to provide services, accommodations, facilities, goods, or privileges would not be the basis for a civil or criminal cause of action or any other action by the state or a political subdivision to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses, from any protected organization or individual.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS
SAY:

SB 2065 would provide legal protections for clergy members and church employees who declined to perform marriages that were against their sincerely held religious beliefs. Ministers must be allowed to follow the dictates of their faith and should not be required to perform weddings if doing so would violate those beliefs. Similarly, churches or their affiliated organizations should not be coerced by threat of litigation into opening their facilities for a marriage if it is in violation of their sincerely held beliefs.

The state's existing statutory protections for religious freedom under Civil Practice and Remedies Code, sec. 110 likely would result in dismissal of a lawsuit filed against a church over denial of marriage services. However, the legal costs of fighting such a lawsuit could bankrupt a smaller congregation.

The legal protections provided by the bill could become important with a U.S. Supreme Court case involving same-sex marriage pending. Regardless of how the U.S. Supreme Court rules, however, certain religious organizations and ministers will continue to believe in the sanctity of traditional marriage between one man and one woman and should not be compelled to violate those beliefs. Moreover, the bill would not prevent a same-sex couple — should such marriages become legal in Texas — from being married by a clergy member who agreed to participate.

The bill's legal protections would extend only to the solemnization, formation, or celebration of a marriage. Concerns that the bill would extend legal protections to businesses that are run by individuals with strongly held religious beliefs are misplaced because those businesses do not perform marriages.

A church would be unlikely to use the law to refuse to allow a wedding involving an interracial couple, as some have suggested. In fact, doing so could risk the religious organization's tax-exempt status under a 1983 U.S. Supreme Court ruling.

Concerns about actions of a religiously affiliated hospital or nursing home

are also misplaced, as the bill is not intended to be used in connection with a situation that does not involve a marriage ceremony. Hospitals would be covered by the bill to the extent that they had a chapel where a wedding might be performed.

It is unlikely that the bill would create a cause of action for a minister who disagreed with doctrinal decisions of his denomination. It would not be appropriate for the state to get involved in ecclesiastical disputes.

**OPPONENTS
SAY:**

SB 2065 is unnecessary because the First Amendment protects the religious freedoms of churches and clergy members. It is commonly accepted practice for certain religions to refuse to marry individuals who previously have been divorced or to require couples to receive religious counseling before marrying. In addition, Civil Practice and Remedies Code, sec. 110.003 prohibits a government agency from substantially burdening a person's free exercise of religion unless the agency demonstrates its action is the least restrictive means of furthering a compelling governmental interest.

The bill contains broad language providing legal protection to “an organization supervised or controlled by or in connection with a religious organization.” This language could provide cover for secular or commercial entities to discriminate against individuals based on sexual orientation or gender identity.

An organization might be able to use the bill to deny services to an interracial couple based on sincerely held religious beliefs. The state should not offer protection to religious organizations if doing so would deny individuals equal protection under the Constitution's 14th Amendment.

It also is unclear whether hospitals or nursing homes that are affiliated with religious organizations could use the bill to refuse to allow a spouse the right to visit or make medical decisions for a loved one.

There is no urgent need for the bill because same-sex couples are not allowed to marry in Texas. Even if same-sex marriages became legal in the Texas, these couples likely would want to be married by clergy

members who embraced their unions and would not try to coerce a clergy member who was opposed.

OTHER
OPPONENTS
SAY:

SB 2065 could provide a cause of action for clergy members who have a doctrinal conflict with their own denomination concerning marriage. The bill should be amended to include language stating that it would not create a cause of action and that a civil court would be required to defer to the highest ecclesial authority of the religious organization on all ecclesiastical questions.

NOTES:

The House companion bill, HB 3567 by Sanford, was reported favorably by the House Committee on State Affairs on April 27 and placed on the May 12 General State Calendar but was not considered.

SUBJECT: Fire safety authority under the State Fire Marshal Office

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Cook, Giddings, Farney, Farrar, Geren, Harless, Huberty, Kuempel, Minjarez, Smithee

0 nays

3 absent — Craddick, Oliveira, Sylvester Turner

SENATE VOTE: On final passage, April 30 — 31-0, on local and uncontested calendar

WITNESSES: None

BACKGROUND: Government Code, ch. 417, establishes duties of the state fire marshal under the authority of the commissioner of insurance. The state fire marshal enforces certain provisions of the Insurance Code and other law relating to the state fire marshal.

Sec. 417.0081 requires the state fire marshal to periodically inspect public buildings under the charge and control of the Texas Facilities Commission and buildings leased for the use of a state agency by the commission.

Sec. 417.0082 authorizes the state fire marshal to take any action necessary to protect a public building under the charge and control of the Texas Facilities Commission. The state fire marshal is also required to protect the building's occupants and the occupants of a building leased for the use of a state agency by the commission. The state fire marshal and the Texas Facilities Commission must include the State Office of Risk Management in all communications regarding fire hazards.

DIGEST: SB 1105 would grant the state fire marshal authority over all state-owned buildings for fire safety purposes. Instead of inspecting only buildings owned or leased by the Texas Facilities Commission, the state fire marshal would be required to inspect buildings owned or leased by a state agency.

For communications regarding fire hazards, the state fire marshal would be required to include the State office of Risk Management (SORM) and each state agency occupying or managing a building with an existing or threatened fire hazard.

This bill would rescind the Texas Facilities Commission's requirement to make and adopt a memorandum of understanding with the commissioner of insurance and SORM but would continue to require a memorandum of understanding between the commissioner of insurance and SORM.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

**SUPPORTERS
SAY:**

SB 1105 would clarify the state fire marshal's authority on fire safety for state-owned buildings. This bill would prevent any confusion among state agencies as to which department had authority for purposes of fire safety.

**OPPONENTS
SAY:**

SB 1105 is unnecessary legislation because the state fire marshal's office currently may inspect any building owned or leased by an agency.

SUBJECT: Repealing the inheritance tax

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 7 ayes — D. Bonnen, Button, Darby, Murphy, Springer, C. Turner, Wray
1 nay — Martinez Fischer
3 absent — Y. Davis, Bohac, Parker

SENATE VOTE: On final passage, March 25 — 31-0

WITNESSES: For — (*Registered, but did not testify*: Peggy Venable, Americans for Prosperity-Texas; Dustin Matocha, Empower Texans; Dean Wright, New Revolution Now; Mark Ramsey, Republican Party of Texas, SREC; Jeffrey Brooks, Texas Conservative Coalition; Bill Hussey; Robin Lennon; Jay Ward)

Against — (*Registered, but did not testify*: Dick Lavine, Center for Public Policy Priorities)

On — Brian Francis, Texas Department of Licensing and Regulation; (*Registered, but did not testify*: Karey Barton, Texas Comptroller of Public Accounts; William Kuntz, Texas Department of Licensing and Regulation)

BACKGROUND: In 2001, Congress passed the Economic Growth and Tax Relief and Reconciliation Act, which repealed the federal tax credit for state inheritance taxes.

Tax Code, ch. 211 governs the state inheritance tax. Sec. 211.051 imposes a tax equal to the amount of the federal credit on the transfer at death of the property of a resident.

DIGEST: CSSB 752 would repeal Tax Code, ch. 211, eliminating the inheritance tax.

This bill would take effect September 1, 2015, and would not affect tax liability accruing before that date.

**SUPPORTERS
SAY:**

CSSB 752 would repeal the inheritance tax, which already has been effectively eliminated by federal action. Because Texas law is written so that the inheritance tax is zero if the federal tax credit is zero, the comptroller only collects the tax if the death occurred before January 1, 2005, the date when the federal tax credit was abolished.

This tax accounted for only \$12,000 in general revenue in 2014. Repealing it would not in any way increase income inequality or make the tax system more regressive. The bill would enable the comptroller to shift resources away from efforts to collect on the inheritance tax and deploy those resources where they could generate far more return on investment.

**OPPONENTS
SAY:**

CSSB 752 would eliminate a tax on the grounds that it does not bring in sufficient revenue to offset the time spent collecting it. However, a tax that is comparatively less cost effective to collect should not necessarily be eliminated.

Additionally, abolishing the inheritance tax at this time would send the wrong signal. The state should be focused on remedying inequality and creating a less regressive tax system, and abolishing the inheritance tax would not address these goals.

NOTES:

CSSB 752 differs from SB 752 as engrossed by the Senate in that the Senate version would have removed a tax assessed to a person who conducts or exhibits a telecast of a combative sports event in which a fee is charged for admission or to view the telecast.

The House companion bill, HB 2114 by Murphy, was placed on the May 5 General State Calendar but was postponed.

SUBJECT: Requiring DPS to provide information on state services to veterans

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 5 ayes — S. King, Frank, Aycock, Blanco, Farias
1 nay — Shaheen
1 absent — Schaefer

SENATE VOTE: On final passage, April 23 — 30-0

WITNESSES: For — *(Registered, but did not testify:* Gyl Switzer, Mental Health America of Texas; Laura Austin and Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Jim Brennan, Texas Coalition of Veterans Organizations)

Against — None

On — Rachel Shumaker, Texas Veterans Commission; *(Registered, but did not testify:* Sheri Gipson, Texas Department of Public Safety)

DIGEST: SB 1308 would require the Department of Public Safety (DPS) and the Texas Veterans Commission to jointly develop a one-page informational paper about veterans services provided by the state for individuals receiving a driver's license or personal identification certificate with a veteran's designation.

DPS would be required to provide the recipient of the driver's license or personal identification certificate the one-page informational paper at the time the license or certificate was issued.

The bill would take effect September 1, 2015.

SUPPORTERS SAY: SB 1308 would help veterans access services they need to transition into civilian life by informing them of services available in Texas. Many veterans are unaware of services provided by the state that could assist

them. This bill would ensure that Texas was more proactive in connecting veterans with benefits they had earned any time they received a driver's license or ID card.

The comprehensive pamphlet of information required by the bill would provide critical information to veterans in one place. The pamphlet would include websites, hotlines, and various contact information for linking veterans with mental health services, Veterans Health Administration claims and advocacy services, education resources, and employment benefits. The unemployment rate for veterans is higher than the state average, and this pamphlet could help many seeking jobs.

The bill would provide an important service at a low cost. The Texas Veterans Commission already has all the necessary information, and the only minor cost would be the reproduction of materials. This cost could easily be absorbed into existing budgets, as projected by the Legislative Budget Board's fiscal note.

**OPPONENTS
SAY:**

SB 1308 would amount to an unfunded mandate. The Department of Public Safety (DPS) would have to produce and print a pamphlet of veterans services information for distribution at offices throughout the state with no additional funding. The department would absorb the costs of producing the information for tens of thousands of veterans every year.

The bill also is unnecessary because veterans already have many ways to obtain information about available state services. Requiring DPS to provide that same information would be unnecessary and duplicative.

SUBJECT: Allowing certain military members to cast a ballot electronically

COMMITTEE: Elections — favorable, without amendment

VOTE: 7 ayes — Laubenberg, Goldman, Fallon, Israel, Phelan, Reynolds, Schofield
0 nays

SENATE VOTE: On final passage, April 30 — 31-0, on local and uncontested calendar

WITNESSES: *(On House companion bill, HB 1646)*
For — Jacquelyn Callanen, Bexar County; Morgan Little, Texas Coalition of Veterans Organizations; *(Registered, but did not testify:* Erin Anderson, True the Vote; Yannis Banks, Texas NAACP; Dana DeBeauvoir, Legislative Committee of County and District Clerks Association of Texas; Deece Eckstein, Travis County Commissioners Court; Bill Fairbrother and Kathy Haigler, Texas Republican County Chairmen's Association; Nancy Goettman, Christian Coalition of Bexar County; Glen Maxey, Texas Democratic Party; Mark Mendez, Tarrant County Commissioners Court; Seth Mitchell, Bexar County Commissioners Court; Celina Moreno, Mexican American Legal Defense and Educational Fund; John Oldham, Texas Association of Elections Administrators; Charles Reed, Dallas County Commissioners Court; Jesse Romero, Common Cause Texas; Bill Sargent, Galveston County Clerk; Jan Soifer, Travis County Democratic Party; Cinde Weatherby, League of Women Voters of Texas; Mike Conwell; Rosemary Edwards)

Against — Alan Vera, Harris County Republican Party Ballot Security Committee; *(Registered, but did not testify:* Brad Parsons)

On — Keith Ingram, Texas Secretary of State, Elections Division; Ed Johnson, Harris County Clerk's Office; *(Registered, but did not testify:* Ashley Fischer; Secretary of State)

BACKGROUND: The enactment in 2013 of HB 1129 by White created the e-mail ballot program for certain military voters stationed overseas. Election Code, sec.

105.004 requires the secretary of state to implement a pilot program allowing early voting by e-mail for active-duty members of the military who are serving abroad and are eligible for hostile fire pay.

Under the program, voters print an election ballot, print and sign a voter signature form, and scan the documents before e-mailing them. The program requires the secure processing of ballots, which would include the use of the voter's military e-mail address and common access card or other measures deemed appropriate by the Texas secretary of state.

The pilot program, which is set to expire on September 1, 2015, currently allows the secretary of state to select one county for participation. Bexar County was selected following the enactment of HB 1129, and the program was used during the March 4, 2014, primary election; the May 27, 2014, runoff primary election; and the November 4, 2014, general election, as documented in the secretary's report to the 84th Legislature.

DIGEST: SB 1115 would amend Election Code, sec. 105.004 to allow a number of counties as determined by the secretary of state, rather than only one county, to participate in the pilot program for certain military members to vote early by e-mail. The bill also would extend the expiration date of the program from September 1, 2015, to September 1, 2017, and would require the secretary of state to file a report on the program with the Legislature by January 1, 2017.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: SB 1115 would streamline the process of voting for a greater number of active-duty military service members in combat zones and would guarantee their right to participate in an election. It is currently difficult for military members stationed overseas to participate in the voting process due to slow and unreliable mail service or a lack of knowledge of how the absentee ballot process works. According to the secretary of state's report to the Legislature following the Bexar County pilot, many voters have difficulty printing, assembling, and returning a carrier envelope in time, as required under the normal process of returning a

ballot by mail. SB 1115 could expand the number of eligible overseas voters by making the process of submitting a ballot simple and electronic.

SB 1115 would not put absentee voters at risk because the online process is safe and secure. The system involves using a government e-mail address, encrypted channels, and government ID with an encrypted code to guarantee that the correct person is in fact casting the ballot. Military e-mail works on a secure platform, and the bill would ensure the state employed other means to prevent fraud and protect ballots used in the program. It also would require participating counties to have the proper technology in place. According to the secretary's report to the Legislature, there were no security issues with the return of ballots during the Bexar County elections in 2014.

**OPPONENTS
SAY:**

Although the state should make certain that every Texan serving overseas in the military is able to vote, SB 1115 would put at risk that very important right. The Internet does not provide the kind of security necessary to ensure the accuracy of a person's vote by e-mail. Such votes could be susceptible to hacking and are unauditably.

NOTES:

The House companion bill, HB 1646 by J. White, was considered in a public hearing of the Elections Committee on May 4 and left pending.

SUBJECT: Giving TDI discretion in reviewing certain lines of insurance

COMMITTEE: Insurance — favorable, without amendment

VOTE: 8 ayes — Frullo, Muñoz, G. Bonnen, Meyer, Paul, Sheets, Vo, Workman
0 nays
1 absent — Guerra

SENATE VOTE: On final passage, (April 30) — 31 – 0 on local and uncontested calendar

WITNESSES: No public hearing

DIGEST: SB 654 would define “commercial property insurance” in the Texas Insurance Code to mean insurance coverage against loss caused by loss, damage, or destruction of real or personal property provided through a commercial property insurance policy. The commissioner could adopt rules to exempt or limit the review of certain lines of commercial property insurance.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2015.

SUPPORTERS SAY: SB 654 would allow the commissioner of insurance to review insurance policies in accordance with the best use of the department’s limited time and resources. When a large insurance company issues a new line, it usually has already gone through several layers of state and federal regulation. Requiring the department to review it again is not always necessary. The bill also would establish a definition of commercial property insurance that was agreed upon between the department and industry stakeholders.

OPPONENTS SAY: No apparent opposition.

SUBJECT: Bond for some parolees in jail on blue warrant for technical violation

COMMITTEE: Corrections — favorable, without amendment

VOTE: 6 ayes — Murphy, Allen, Keough, Krause, Schubert, Tinderholt

0 nays

1 absent — J. White

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: *(On House companion bill, HB 3239)*

For — A.J. Louderback, Sheriffs' Association of Texas; *(Registered, but did not testify:* Matt Simpson, ACLU of Texas; Seth Mitchell, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; Donna Warndorf, Harris County; R. Glenn Smith and Dennis D. Wilson, Sheriffs' Association of Texas; Mark Mendez, Tarrant County Commissioners Court; Laura Nicholes, Texas Association of Counties; Donald Lee, Texas Conference of Urban Counties; Patricia Cummings, Texas Criminal Defense Lawyers Association; Douglas Smith, Texas Criminal Justice Coalition; Roy Boyd, Victoria County Sheriff's Office)

Against — *(Registered, but did not testify:* Ross Kurtz, Wharton County District Attorney's Office)

On — *(Registered, but did not testify:* Stuart Jenkins, Texas Department of Criminal Justice-Parole Division)

BACKGROUND: The parole division of the Texas Department of Criminal Justice (TDCJ) may issue an arrest warrant for a parolee who is accused of an administrative violation of parole or of committing a new offense. These warrants are sometimes called "blue warrants" due to the color of paper on which they are printed. Parolees arrested under a blue warrant are held in county jails pending a hearing to determine if their parole will be revoked. Government Code, sec. 508.254(c) requires that persons in

custody pending a hearing on charges of violating parole remain confined.

Government Code, sec. 508.251 allows TDCJ, under certain circumstances, to issue a summons, instead of a warrant, to persons accused of violating the conditions of parole.

DIGEST: SB 790 would allow parolees being held in county jails on a warrant based only on an administrative violation of parole to be released on bond pending their parole revocation hearing, under certain circumstances.

A magistrate would have to find that a parolee was not a threat to society, and the parole division of the Texas Department of Criminal Justice (TDCJ) would have to include on the warrant notice that the person was eligible for release on bond. Offenders would be eligible if they did not have previous convictions for robbery offenses, felony offenses against persons, or family violence offenses. TDCJ would have to determine that offenders were not on intensive or super-intensive supervision, not absconders, and not a threat to public safety.

Other legal provisions dealing with bail and bail forfeiture would apply to persons released under the provisions of the bill, except that their release on bail would be conditioned on appearance at a parole revocation hearing.

The bill would revise current procedures for holding parole revocation hearings when TDCJ has issued a summons to a parolee. The current requirement that sheriffs provide a place at the county jail for the hearing would be eliminated. An arrest warrant could be issued by the parole division for the offender's arrest after a final determination by the parole board, rather than having an arrest warrant issued while the parole board's determination is pending.

The bill would take effect September 1, 2015, and would apply to persons charged with parole violations on or after that date.

SUPPORTERS SAY: SB 790 would give judges and counties another tool to manage county jail populations without jeopardizing public safety, allowing them to better focus their resources on pressing needs.

Currently, parolees accused of violating a condition of their parole, even those accused of technical violations, are housed in county jails while awaiting their parole revocation hearing. Offenders can sit in jail during the 40 days that TDCJ has to dispose of the warrant that was issued for the offender's arrest, putting a strain on the capacity of some jails. Often after a parole revocation hearing for a technical violation, parolees simply are released and not returned to TDCJ. This means that the county could bear the expense of housing an offender, currently for an average of about 37 days, only to have the offender released.

The bill would address this situation by allowing a small group of parole violators to be eligible for release on bond. The bill would apply to those accused only of administrative violations of their parole. Administrative parole violations, also called technical violations, include such violations as failure to report to a parole officer, non-participation in treatment programs, or violating a curfew.

The bill would not require any parolee to be bonded out, leaving that decision to the judge. The bill has several features that would protect public safety and ensure that only appropriate offenders would be eligible for release on bond, including only being used in cases in which a parolee was not a threat to public safety, was not an absconder, and did not commit certain offenses. The bill would benefit offenders and society because these parolees could continue to work and support their families.

Cases in which a parolee had been released on bond and failed to appear at a hearing could be handled similar to the way situations are handled when someone fails to appear after a summons.

The change in procedures for parole revocation hearings would ease the burden on county jails with no threat to public safety or burden to TDCJ.

**OPPONENTS
SAY:**

Current law appropriately prohibits the release on bond for parolees awaiting a revocation hearing, even if for a technical violation of parole. These parolees could be a flight risk because they can be returned to prison if found guilty or can have other sanctions imposed on them. The lowest risk offenders may already be handled through the summons

process.

**OTHER
OPPONENTS
SAY:**

TDCJ currently may issue a summons, rather than an arrest warrant, to an offender accused of an administrative parole violation. Encouraging this process would be a better approach than changing the law concerning bail. It is unclear how SB 790 would work if a parolee released on bond failed to appear at a parole revocation hearing since the parole board officials would not have authority to revoke the bond, something that is under the authority of the courts.

NOTES:

The House companion bill, HB 3239 by Fletcher, was placed for second-reading consideration on the General State Calendar for May 12 but was not considered.